

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

ORIGINAL

D&F
C/M

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TRUSTEES OF THE PLUMBERS LOCAL
UNION NO. 1 WELFARE FUND,
ADDITIONAL SECURITY BENEFIT FUND,
VACATION & HOLIDAY FUND,
PROMOTION FUND, TRADE EDUCATION
FUND AND 401(K) SAVINGS PLAN,
TRUSTEES OF THE PLUMBERS &
PIPEFITTERS NATIONAL PENSION FUND,
and TRUSTEES OF THE INTERNATIONAL
TRAINING FUND and GEORGE W. REILLY,
as Business Manager of LOCAL UNION NO. 1
OF THE UNITED ASSOCIATION OF
JOURNEYMEN AND APPRENTICES OF THE
PLUMBING AND PIPEFITTING INDUSTRY
OF THE UNITED STATES AND CANADA,

MEMORANDUM AND ORDER

Case No. 08-CV-116 (FB) (JMA)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
★ AUG 11 2009 ★

BROOKLYN OFFICE

Plaintiffs,

-against-

AXIOM PLUMBING & HEATING CORP.,

Defendant.

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Appearance:

For the Plaintiffs:

CHARLES R. VIRGINIA, ESQ.
Virginia & Ambinder LLP
111 Broadway
14th Floor - Suite 1403
New York, NY 10006

BLOCK, Senior District Judge:

On June 30, 2009, Magistrate Judge Azrack issued a Report and Recommendation ("R&R") recommending that a default judgment be entered against defendant in the amount of \$179,818.03. See R&R at 11. The R&F also stated that failure

to object within ten days would preclude appellate review. *See id.* Attorney for plaintiffs mailed a copy of the R&R to defendant on July 6, 2009; no objections have been filed.

If clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where parties receive clear notice of the consequences, failure timely to object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision."). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error, *see Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000); no such error appears here. Accordingly, the Court adopts the R&R without *de novo* review and directs the Clerk to enter judgment in accordance with the R&R.

SO ORDERED.

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FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
August 6, 2009